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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,436	04/09/2007	Pascal Delbrassinne	SN142PCT1	3751

137 7590 04/08/2010  
DOW CORNING CORPORATION CO1232  
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EXAMINER
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MOORE, MARGARET G

ART UNIT	PAPER NUMBER
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1796

NOTIFICATION DATE	DELIVERY MODE
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04/08/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents.admin@dowcorning.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/581,436	<b>Applicant(s)</b> DELBRASSINNE ET AL.	
	<b>Examiner</b> Margaret G. Moore	<b>Art Unit</b> 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 to 7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 to 7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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1. Please note that this application has been transferred and is currently being examined by Margaret Moore. In view of the new ground of rejection, noted in paragraph 2 below, that was not necessitated by applicants' amendment this action cannot be made final.

2. Claims 1 to 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Reference to "the granulated foam control agent" in claim 1 lacks antecedent basis. It is unclear what is intended by this.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 to 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Christiano et al. in view of EP 206 522.

Christiano et al. teach an antifoam composition in which the benefits of having an active silicone anti foam material is increased by slowing release of the silicone material. See column 1, lines 5 to 20. This composition includes components meeting the claimed components (i) to (iv). Please see specific Example 24 in which a silicone resin (meeting claimed component (ii)), Pegospherse DS 50 (meeting claimed component iv)), silica (meeting claimed component (iii)) and vegetable oil (meeting claimed component (i)) are admixed to form an antifoam concentrate. This differs from that claimed in that the components (i) to (iv) are not on a particulate carrier. The Examiner assumes this is what is intended to be claimed. See the rejection in paragraph 2 above as it presently applies.

EP 206 522 (herein '522) teach antifoam compositions on a particulate carrier which allow for protection against premature deactivation of the antifoaming agents. The resulting material is impervious while in a dry state but is capable of disruption on contact with water to release the antifoam active substances. See for instance the Background and Definition of the Invention on page 2 of '522. The active antifoaming components include many of those in Christiano et al. and even those in specific working example 24, referred to above. The particles are prepared by applying the antifoam substance onto a core particle and applying thereto a coating. Please see column 3 which teaches various core components meeting the particulate carrier (v) in claim 1. Please see the coating on column 6 which meets the binder (vi) in claim 1.

Christiano et al. are concerned with the rate and temperature at which the silicone antifoaming agent is released. One having ordinary skill in the art, concerned with the rate at which the silicone anti foaming agent is released, would have been motivated to apply the silicone antifoaming composition onto a particulate carrier and coating it with a coating that aids in controlling the distribution of the antifoaming agent, as per the teachings in '522. Such a core/coating combination also allows for greater stability in the dry state. Thus the skilled artisan would have been motivated to apply the antifoaming composition of, for instance, Example 24 in Christiano et al. to the surface of a carrier, as found on column 3 in '522, and apply a coating thereto to render the antifoaming components stable in the dry state. See column 6 of '522. In this manner the skilled artisan would have found the claimed composition to have been obvious.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret G. Moore whose telephone number is 571-272-1090. The examiner can normally be reached on Monday and Wednesday to Friday, 10am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Margaret G. Moore/  
Primary Examiner, Art Unit 1796

mgm  
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